plaintiff, not only to show an injury done him by the defendant, but also to show that it was due to the defendant's negligence. *Turtellot v. Rosebrook,* 11 Met. 460. But the amount of evidence necessary to make out a *prima facie* case differs according to the circumstances. *Cooley on Torts,* Vol. 2, p. 1414. In actions against bailees based on negligence, it is held by some authorities that the mere proof of loss or injury does not alone make out a *prima facie* case, but that the plaintiff must prove that loss was due to the neglect of the bailee. *Story on Bailments,* § 410; *Cross v. Brown,* 41 N. H. 283; *Brown v. Johnson,* 29 Tex. 43. The weight of authority, however, holds that in such cases a failure to fulfill a duty by a bailee or an injury done in fulfilling it makes out a *prima facie* case and shifts the burden of proceeding to the defendant. *Boise v. Hartford and N. H. R. Co.,* 37 Conn. 272; *Stewart v. Stone,* 127 N. Y. 500. Following this rule, the Georgia Code, § 2896, provides that "in all cases of bailments after proof of loss, the burden of proof is on the bailee to show proper diligence." *Cent. R. R. Co. v. Anderson,* 58 Ga. 393.

CARRIERS—LIABILITY OF CARRIER—DUTY OF SHIPPER TO INSPECT CAR.—CLEVELAND, C., C. & ST. L. RY. CO. v. LOUISVILLE TIN & STOVE CO., 111 S. W. 358 (KY.).—*Held,* that it is not the duty of a shipper to inspect a car furnished by a carrier, or to exercise care to know whether the car is in condition; but he may assume that the carrier would not have directed the placing of the goods in the car unless it was suitable.

The duty to inspect vehicles of conveyance lies upon the carrier. *Empire Transp. Co. v. Wamsutta Oil Co.,* 63 Pa. St. 14, and it is an insurer as against such perils as arise from the use of defective or inadequate instruments of carriage. *Terre Haute & I. R. Co. v. Crews,* 53 Ill. App. 50; *Costigan v. Michael Transp. Co.* 33 Mo. App. 269. The weight of authority is that it may be relieved of this responsibility as insurer when the shipper retains an inspector to select and approve the cars to be used. *Carr v. Schafer,* 5 Colo. 48; and when there is a distinct contract relieving from such liability. *Gage v. Tirrell,* 91 Mass. 299; *South & N. A. R. Co. v. Wood,* 66 Ala. 167. But it has been held that a mere provision in a contract of carriage accepting car is not sufficient to waive defect. *Wallingford v. Columbia & G. R. Co.,* 26 S. C. 258. And, likewise, the mere knowledge by the shipper of unsuitable condition of car is insufficient to relieve carrier. *Pratt v. Ogdensburg & L. C. R. Co.,* 102 Mass. 557; *Schwinger v. Raymond,* 83 N. Y. 192.

CARRIERS—VALIDITY OF EXPRESS RECEIPTS—EXEMPTIONS FROM LIABILITY.—GREEWALD V. WEIR, 111 N. Y. SUPP. 235—The Interstate Commerce Act of Feb. 4, 1887, provides that any carrier shall be liable for the loss of property, and that no contract shall exempt such carrier from the liability thereby imposed. In an action brought under this act, *held,* that the clause in an express receipt, attempting to limit the carrier's liability to $50.00, or to exempt it from all liability in excess of that sum was void. Dayton, J., *dissenting.*

A carrier and the shipper may agree upon the value of the property to be shipped and limit the liability of the carrier accordingly. *Coupland v. Housatonic R. R. Co.,* 61 Conn. 531; *Groves v. Lake Shore & Michigan*

So. R. R. Co., 137 Mass. 33; or if the contract fixed a maximum value of the property, and it was agreed that in case of loss the recovery should not exceed that value, this is equally binding. *Alair v. Northern Pac. R. R. Co.*, 53 Minn. 160; *Hart v. Penn. R. R. Co.*, 112 U. S. 331. But the decisions are practically uniform in holding that a carrier cannot by special contract limit its liability to an arbitrary sum, fixed without reference to the value of the property. *Ullman v. Chicago & Northwestern R. R. Co.*, 112 Wis. 150; *Louisville & Nashville R. R. Co. v. Owen*, 93 Ky. 201.

CONTEMPT—DISOBEDIENCE TO DECREE—ORAL ADVICE OF JUDGE.—LEWIS V. BRENNAN, JUDGE, 117 N. W. 279 (IOWA).—Where a decree requires a building to be closed, as a nuisance, as against its use for all purposes, *held*, that the owner, in breaking into and using building, is guilty of contempt, though the judge orally advised the sheriff to close it temporarily only.

Judges merely as judges cannot exercise judicial power. *Toledo, A. A. & G. T. R. Co. v. Dunlap*, 47 Mich. 456; *Whitlock v. Wade*, 117 Iowa 153. The laws fix the time, place, and manner in which judges shall sit as a court. *Blair v. Reading*, 99 Ill. 600. It is the duty of a judge to command, not to advise, and his orders must be reduced to writing. *Savings Bank v. Ball-bearing Chain Co.*, 118 Iowa, 688; *In re Thomas's Estate*, 26 Col. Supp. 110. A reliance upon his oral advice and verbal directions will not excuse a contempt for disobeying his decrees. *Capet v. Parker*, 3 Sandf. 662; *Tremain v. Richardson*, 68 N. Y. 67.

DAMAGES AND MUTILATION OF DEAD BODY—MENTAL SUFFERING.—KYLES V. SOUTHERN R. CO., 61 S. E. 278 (N. C.).—*Held*, that where the rights of one legally entitled to the custody of a dead body are violated by mutilation of body or otherwise, the party injured may in an action for damages, recover for the mental suffering caused by the injury.

A widow's primary right to bury the body of her deceased husband is generally recognized. *Hackett v. Hackett*, 18 R. I. 155; *Weld v. Walker*, 130 Mass. 422. And a wanton or negligent mutilation of the body is actionable. *Doxtator v. Chicago & W. Mich. R. Co.*, 120 Mich. 596; *Burney v. Children's Hospital*, 169 Mass. 57. Some courts hold that the violation of this right naturally contemplates injury to the feelings and allow compensation to be recovered for the mental suffering. *Larson v. Chase*, 47 Minn. 307; *Rcinham v. Wright*, 125 Ind. 536. This rule seems to be followed only in those states which hold that damages for injury to the feelings alone is sufficient ground for recovery. *Wells Fargo Co.'s Express v. Fuller*, 13 Tex. Civ. App. 610; *Chapman v. Western Union*, 90 Ky. 265. The rule is repudiated in other states. *Long v. Chicago, R. I. T. Co.*, 15 Okl. 512; *Pa. R. R. Co. v. Butler*, 57 Pa. St. 335.

EMINENT DOMAIN—RIGHTS OF PROPERTY OWNERS—WHEN ACQUIRED.—SIMPSON V. BERKOWITZ, 110 N. Y. SUPP. 485. Where public officers passed a resolution condemning lands, *held*, that property owners acquire no vested rights in such proceedings until the report of the Commissioners of Appraisal is finally confirmed.

While some states hold that the confirmation of the commissioners'